IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.E.A.No. 18 of 2006

Date of decision:23.10.2006

Commissioner of Central Excise, Ludhiana ...Appellant

Versus

M/S Gokal Steel Rolling Mills ...Respondent

CORAM: HON'BLE MR.JUSTICE ADARSH KUMAR GOEL
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Ms.Daya Chaudhary, Assistant Solicitor General of India for the appellant.

Mr.Sudeep Singh, Advocate for the respondent.

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JUDGMENT

During the course of verification, the officers of Central Excise Department found that determination of production capacity of M/S Gokal Steel Rolling Mills was not correct. The production capacity was, therefore, redetermined and after issuing show cause notice, duty of Rs.51096/- was imposed. Penalty of equal amount was also imposed apart from interest on delayed payment. The said order was upheld by the Commissioner (Appeals) Central Excise, Chandigarh (Annexure A-4). On further appeal, the Tribunal upheld the demand of duty but reduced the amount of penalty to Rs.5,000/-.

In C.E.A.No.77 of 2005-Commissioner, Central Excise Commissionerate, Ludhiana Vs. M/S K.C.Alloys & Steel Castings, Ludhiana, decided on 3.8.2006, it has been held that power of imposition of penalty under proviso to Rule 96ZO of Central Excise Rules, 1944, has to be exercised in the facts and circumstances of the case having regard to period of delay, amount involved and other circumstances.

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The Tribunal having reduced the amount of penalty from Rs.51096/- to Rs.5000/- in a given fact situation, we are unable to hold that the view taken by the Tribunal is perverse. We do not find any substantial question of law arising in the appeal.

Accordingly, the appeal is dismissed.

(Adarsh Kumar Goel)
Judge

October 23,2006 **(Rajesh Bindal)**
Pka **Judge**